

REMARKS

The following remarks were used in the phone interview as a basis for discussion and will herewith entered as an official reply to the latest office action.

PHONE INTERVIEW

A phone interview took place on the 13th and the 20th of December 2004 between Supervisor Etienne, Examiner Burgess and undersigned agent Ron Jacobs. Conclusion was reached that (i) Breese was not prior art to the original claims, and (ii) applicant proposed an amendment to the two independent claims (1 and 32) to indicate “*unseen documents*”. It was further acknowledged that such a claim amendment places the claims in a condition of allowance.

CLAIM REJECTION, 35 USC Paragraph 103

Claims 1-62 were rejected under U.S.C. 103(a) as being unpatentable over *Breese et al.* (U.S. Patent No. 6,006,218).

In reply, the Applicant respectfully disagrees.

1. Inconsistency among the rejections in Office Actions

In the Non-Final Office Action dated January 29, 2004 the Examiner rejected claims 1-62 under U.S.C. 103(a) as being unpatentable over *Breese et al.* (U.S. Patent No. 6,006,218) in view of *Hertz et al.* (U.S. Patent No. 5,754,939). The Examiner stated that *Breese*

disclosed claim element 1a, 1b, and 1d and believed that *Hertz* disclosed claim element 1c, 1e and 1f.

In the Final Office Action dated June 4th, 2004 the Examiner dropped *Hertz* in the 103 argument pursuant of Applicants' previous arguments and still alleges that "*Breese does not explicitly disclose*" 1c, 1e and 1f [page 3 of the Office Action; underline and italic by Applicants]. The Applicant argued that if *Breese* does not explicitly disclose as the Examiner states, how can a complete and lawful 103 argument be construed that render the claims obvious? Examiner withdrew finality but did not address the arguments made by Applicant with respect to the claim rejection! The Applicant hereby invites to comment on these arguments.

In the present Office Action, i.e. a Non-Final Office Action, the Examiner again changed arguments and now believes that *Breese* disclosed claim elements 1a, 1b, 1d and 1f. Further the Examiner still alleges that "*Breese does not explicitly disclose*" 1c and 1e [page 3 of the Office Action; underline and italic by Applicants]. However, the Examiner argues on the same page 3 of the Office Action in the second paragraph, referencing *Breese*, that memorization is used by *Breese*. The Applicant argues that the reference passages in *Breese* do not teach or suggest the remaining claim elements. The Applicant invites the Examiner to discuss and explain how these passages teach or suggest the remaining claim elements.

It is noted that the numerous Office Actions received during prosecution of the

application have been inconsistent and raise questions about Examination process.

2. Breese does not teach not suggest the claimed invention

With this reply, the Applicant enters a new argument to make it yet again clear that *Breese* and the present claims are very different. The Applicant hereby also incorporates all previous arguments made in previous replies to Office Actions.

Breese teaches memorization, and not learning or generalization.

1. *Breese* tallies up seen objects (memorization), determines the probability that a user has seen the object, and then does not show it again to the user.
2. The Examiner even acknowledges in the present office action stating on page 9 “According to *Breese*, if the user already knows the document, it is considered to be of little or no interest.” This clearly states “memorization.

With this reply two documents have been added to be part of the record stating the meaning of memorization as known by a person of average skill in the art.

A. Slide 9 (marked with page number 10 by author) is titled: “**Learning is not memorization**” [Underline and bold added by Applicant].

The reference can be found at <http://www.cs.nyu.edu/~yann/2004s-G22-3033-014/diglib/lecture01.pdf>

B. On page 9 (page 9 of PDF document, page 1 of the Ph.D. thesis) of this 2002 thesis the Author states the following:

"Lets consider the simplest form of learning, namely **memorization**, also known as rote learning. An agent can easily learn that "When I see A, I should do B". This will be enough if our agent is working in a very simple environment. But as we scale our system up to deal with environments, which are closer to those encountered in real world, we discover a problem. It cannot possibly **learn** what to do in every possible situation, there are just too many....." [Underline and bold added by Applicant].

The reference can be found at <http://cs.gmu.edu/~eclab/papers/Bassett02thesis.pdf>

These two statements clearly state the understanding by a person of average skill in the art to which the invention pertains of the difference between memorization and learning. The Applicant is ready to submit more support upon request by the Office.

A **person of average skill in the art** clearly understands that the teaching of *Breese* are merely memorization and *not* learning. *Breese* does not teach and not even address the problem of generality and predictability beyond a memory model and can therefore not render the present claims obvious. Furthermore, the **same person of average skill in the art** clearly understands that the teaching of the present invention deal with learning, predictability and generalization as clearly claimed. The Applicant would be happy to submit further materials to make this point clear if desired by the Office.

CONCLUSION

Applicant respectfully submits that the present claims 1-62 are **NOT obvious** with respect to *Breese*. A **prima facie** case of obviousness (MPEP 2143) has **not been established** as discussed *supra* and previously.

The Applicants submit that claims 1-62 are novel and unobvious over *Breese*. Accordingly, allowance of the claims now in the application is kindly requested.

Respectfully submitted,



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